

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO

**Clearview Cleaners
Charlottesville, Virginia
Registration No: 40847**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1187, -1184, -1307(D), -1309, and -1316(C), between the State Air Pollution Control Board and Clearview Cleaners, for the purpose of resolving certain alleged violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.
6. “Clearview” means Clearview Cleaners, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means Clearview’s dry cleaning facility located at Barracks Road Shopping Center, Charlottesville, VA.

8. “VRO” means the Valley Regional Office of DEQ, located at 4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801.
9. “CFR” means Code of Federal Regulations.

SECTION C: Findings of Facts and Conclusions of Law

1. Clearview owns and operates the Facility, which is subject to applicable Regulations of the Board.
2. During an inspection of Clearview’s dry cleaning facility on February 24, 2003, a VRO air inspector discovered an active leak of cleaning solvent, Perchloroethylene (Perc), from Clearview’s dry cleaning machine, Detrex Model 22-90-H-3 SN 200. 40 CFR Part 63.322(k) provides that “There must be no perceptible leaks on the machine when inspected.”
3. In addition, the inspector determined that at the time of the inspection, Clearview was not in compliance with State Air Pollution Control law due to excessive temperature (temperature exceeded 45 degrees F) on the condenser exhaust on the same dry cleaning machine. 40 CFR Part 63.323(a)(1) provides that “the temperature on the outlet side of the control device must be checked once per week while the system is on the cool down cycle and the temperature must be equal to or less than 45 degrees F or 7.2 degrees C.”
4. VRO issued a Notice of Violation (NOV) to Clearview on March 3, 2003, citing the violations enumerated above.
5. Clearview owner David Cooke responded to the NOV on March 5, 2003, explaining that lint accumulated inside the aging dry cleaning machine, causing the pipes to freeze up, causing the leak and also causing the temperature of the exhaust to elevate. Mr. Cooke also stated that the machine would be retired shortly and the dry cleaning facility at this location would be closed.
6. Mr. Cooke assured VRO that the machine was repaired immediately after the results of the air inspection on March 3, 2003.
7. Mr. Cooke met with DEQ representatives on May 6, 2003 to discuss the allegations and corrective action taken. DEQ is satisfied that the dry cleaning system temperature was addressed adequately and no enforcement action need follow on that violation. The Perc leak violation is addressed by this Order.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1186(2), 10.1-1309, and 10.1-1316(C), orders Clearview and Clearview agrees, to perform the corrective actions described in Appendix A of this Order. In addition, the Board orders Clearview, and Clearview voluntarily agrees to pay a civil charge of \$420.00 in settlement of the violations cited in this Order. Therefore:

1. Clearview agrees to pay the amount of **\$420.00** of this civil charge within 30 days of the effective date of this Order. Payment must indicate that the civil charge is paid pursuant to this Order, and shall include Clearview's Federal Identification Number. Payment shall be by check, certified check, money order, or cashier's check payable to **"Treasurer of the Commonwealth of Virginia"** and sent to:

**Receipts Control
Department of Environmental Quality
P. O. Box 10150
Richmond, Virginia 23240**

2. Clearview shall complete the corrective action described in Appendix A of this Order, which shall constitute a corrective action plan (CAP).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Clearview, for good cause shown by Clearview, or on its own motion after notice to Clearview and its opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Clearview admits to the allegations in Section C of this Order.
4. Clearview consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Clearview declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right of Clearview to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Clearview to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Clearview shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Clearview shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Clearview shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Clearview intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Clearview. Notwithstanding the foregoing, Clearview agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Clearview. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Clearview from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Clearview voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2003.

Robert G. Burnley
Department of Environmental Quality

Clearview voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of
_____, 2003, by _____, who is
(name)

_____ of Clearview, on behalf of the Corporation.
(title)

Notary Public

My commission expires: _____.

APPENDIX A (Corrective Action Plan)

1. Clearview shall monitor the exhaust temperature on the dry cleaning machine at least daily until the machine is retired or the facility is permanently closed. A daily log shall be kept for this purpose.
2. Clearview shall inspect the dry cleaning machine at least daily for Perc leaks until machine is retired or the facility is permanently closed. A daily log shall be kept for this purpose.
3. Clearview shall inform VRO before June 30, 2003 as to whether the Barracks Road dry cleaning facility will be closed permanently or if the lease at that location will be renewed.